

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
NEWPORT NEWS DIVISION**

**VALENTYNA GUDYM,**

Plaintiff,

v.

**LAW OFFICES OF  
SHAPIRO, BROWN & ALT, LLP, et al.**

Defendants.

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\* Civil Action No: 4:12-cv-85 AWA-DEM

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**SB&A AND PFC’S MEMORANDUM IN SUPPORT OF ITS  
MOTION TO TRANSFER**

Defendants Shapiro, Brown & Alt, LLP (“SBA”) and Professional Foreclosure Corporation of Virginia (“PFC”), by counsel, hereby submit this memorandum in support of their motion to dismiss the Complaint filed by Plaintiff Valentyna Gudym pursuant to Federal Rule of Civil Procedure 12(b)(3) and 12(b)(6), and in support thereof, state as follows:

**I. This action should be dismissed and/or transferred to the Alexandria Division.**

Plaintiff’s claim is filed in the wrong venue. Under 28 U.S.C. §1391(b), because all of the defendants are residents of Virginia, the present action must be brought in a judicial district where any defendant resides, or where a substantial part of the events giving rise to the claim

occurred.<sup>1</sup> Pursuant to Local Civ. R. 3(C), “[t]he venue rules stated in 28 U.S.C. § 1391 et seq. also shall apply to determine the proper division in which an action shall be filed. For the purpose of determining the proper division in which to lay venue, the venue rules stated in 28 U.S.C. § 1391 et seq. shall be construed as if the terms "judicial district" and "district" were replaced with the term ‘division.’”

Here, the Newport News Division is not a permissible venue: no defendant resides in Newport News nor are any of the events alleged to have given rise in Newport News. Specifically, Plaintiff purports to reside in Fairfax County, which is located in the Alexandria Division. See Local Civ. R. 3(b)(3). Defendant SBA has offices in Fairfax and Virginia Beach, see Compl. at ¶3, which is in the Alexandria Division and Norfolk Division, respectively. See Local Civ. R. 3(b)(3). Moreover, the causes of action relate to a letter sent by “Defendants” to Plaintiff. Accordingly, venue does not lie in this Court.

To the extent that this action was filed in Newport News to be consolidated with other mediations set in other FDCPA cases against these Defendants that have been brought by

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<sup>1</sup> Specifically, 28 U.S.C. §1391(b) provides:

(b) Venue in general. A civil action may be brought in--

(1) a judicial district in which any defendant resides, if all defendants are residents of the State in which the district is located;

(2) a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated; or

(3) if there is no district in which an action may otherwise be brought as provided in this section, any judicial district in which any defendant is subject to the court's personal jurisdiction with respect to such action.

28 U.S.C. §1391(b).

Plaintiff's attorneys, then Defendants consent to venue in this Division solely for the purpose of mediation.

Otherwise, Defendants request that the action be transferred to a proper venue, see Local Civ. R. 3(C) (providing for transfer upon filing in improper Division), specifically, the Norfolk Division, or alternatively the Alexandria Division.

Further, because this action is premised upon claims under the Fair Debt Collection Practices Act, which provides for attorney's fees to the successful Plaintiff, Defendants request that any order transferring the action exclude any fees in connection with the transfer.

Dated: July 2, 2012

Respectfully Submitted,  
SHAPIRO, BROWN & ALT, LLP and  
PROFESSIONAL FORECLOSURE  
CORPORATION OF VIRGINIA  
*By Counsel*

By: /s/ Bizhan Beiramee  
Bizhan Beiramee, Esq., (VSB # 50918)  
Beiramee & Cohen, P.C.  
6663 B Old Dominion Drive  
Third Floor  
McLean, Virginia 22101  
Phone: (703) 483-9600  
Fax: (703) 483-9599  
Email: bbeiramee@beiramee.com  
*Counsel for Shapiro, Brown & Alt, LLP and  
Professional Foreclosure Corporation of Virginia*

CERTIFICATE OF SERVICE

I hereby certify that on the 2nd day of July, 2012, I electronically filed the foregoing pleading with the Clerk of the Court using the CM/ECF System, which will then send a notification of such filing (NEF) to the following:

Dale Wood Pittman, Esq.  
The Law Office of Dale W. Pittman, P.C.  
112-A W Tabb St  
Petersburg, VA 23803-3212  
(804) 861-6000  
Fax: (804) 861-3368  
Email: dale@pittmanlawoffice.com

Kristi Cahoon Kelly, Esq.  
Surovell Isaacs Petersen & Levy PLC  
4010 University Drive, Suite 200  
Fairfax, VA 22030  
703-277-9774  
Fax: 703-591-9285  
Email: kkelly@siplfirm.com

Leonard Anthony Bennett, Esq.  
Susan Mary Rotkis, Esq.  
Consumer Litigation Associates  
763 J Clyde Morris Boulevard, Suite 1A  
Newport News, VA 23601  
757-930-3660  
Fax: 757-930-3662  
Email: lenbennett@cox.net  
Email: srotkis@clalegal.com

Matthew James Erausquin, , Esq.  
Consumer Litigation Associates PC (Alex)  
1800 Diagonal Road, Suite 600  
Alexandria, VA 22314  
703-273-6080  
Fax: 888-892-3512  
Email: matt@clalegal.com

By: /s/ Bizhan Beiramee  
Bizhan Beiramee